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6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 DANA M. RYAN,

12 Defendant.

CASE NO. C08-5352BHS

ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT

13 This matter comes before the Court on Plaintiff's unopposed motion for summary  
14 judgment. Dkt. 7.

15 **I. BACKGROUND**

16 Plaintiff provides the following factual and procedural background:

17 On April 15, 1987, Defendant executed and delivered a promissory  
18 note to secure a Federal Family Education Loan Program Consolidation  
19 loan from Student Loan Marketing Association (copy attached hereto as  
20 Exhibit B). [Dkt. 7-2 at 2]. The facts of this loan are established by the  
21 Certificate of Indebtedness. (See Exhibit A). [Dkt. 7-2 at 1]. The loan was  
22 disbursed for \$26,735.52 on September 3, 1987, at 9.00% per annum. The  
23 loan obligation was guaranteed by Great Lakes Higher Education  
24 Corporation, and then reinsured by the Department of Education under loan  
25 guaranty programs authorized under Title IV-B of the Higher Education Act  
26 of 1965, as amended, 20 U.S.C. 1071 et seq. (34 CFR Part 682). The holder  
27 demanded payment according to the terms of the note, and credited \$0.52 to  
28 the outstanding principal owed on the loan. Defendant defaulted on the  
obligation on July 31, 1990, and the holder filed a claim on the loan  
guarantee.

Due to this default, the guaranty agency paid a claim in the amount  
of \$30,686.47 to the holder. The guarantor was then reimbursed for that  
claim payment by the Department of Education under its reinsurance  
agreement. Pursuant to 34 CFR § 682.410(b)(94), once the guarantor pays  
on a default claim, the entire amount paid becomes due to the guarantor as  
principal. The guarantor attempted to collect this debt from borrower. The  
guarantor was unable to collect the full amount due and, on January 27,  
1996, assigned its right and title to the loan to the Department of Education.

1 The total balance as of March 19, 2008 was \$66,146.50. Defendant  
2 has not disputed these facts.

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3 On June 3, 2008, the United States filed this action in the United  
4 States District Court, Western District of Washington at Tacoma, to collect  
5 an indebtedness from Defendant Ryan for non-payment of a promissory  
6 note executed and delivered to the United States Department of Education.  
7 [Dkt. 1]. Said indebtedness to the United States is supported in the  
8 Certificate of Indebtedness (copy attached hereto as Exhibit A) executed by  
9 Alberto Francisco, Senior Loan Analyst, U.S. Department of Education.  
10 [Dkt. 7-2 at 1].

11 On June 27, 2008, Defendant Ryan filed a Notice of Appearance and  
12 Answer in response to the United States' Complaint. In the Answer, Mr.  
13 Ryan admitted each paragraph of the Complaint. [Dkt. 4]. Additionally, in  
14 correspondence dated July 7, 2008, to the United States Attorney's Office,  
15 Mr. Ryan stated that "I will agree to a judgment and am ready to make  
16 payments." (Exhibit 1 to Declaration of Shannon Connery). [Dkt. 7-3 at 3].  
17 The United States Attorney's Office has attempted to contact Mr. Ryan to  
18 draft a consent judgment, however Mr. Ryan cannot be reached by  
19 telephone and he has not responded to correspondence. (Declaration of  
20 Shannon Connery). [Dkt. 7-3 at 2].

21 Dkt. 7, 1-3.

22 Plaintiff now moves for summary judgment against Defendant Dana M. Ryan.  
23 Plaintiff maintains that it is owed \$66,136.50<sup>1</sup>, comprised of \$26,735.00 in principal and  
24 \$39,401.50 in prejudgment interest to March 19, 2008, at 9.00% per annum. Dkt. 7-4  
25 (Declaration of Amount Due). Interest is to accrue at 9.00% per annum until entry of  
26 judgment on the principal amount. *Id.* at 2. In addition, Plaintiff seeks (1) interest on the  
27 total judgment; (2) \$350.00 in filing fees, pursuant to 28 U.S.C. § 2412(a)(2); and (3)  
28 \$20.00 in docketing fees, pursuant to 28 U.S.C. § 1923. *Id.*

Plaintiff also states that, based on information provided to the United States  
Department of Education, Defendant is not believed to be an infant or incompetent person  
and is not in the military service within the purview of the Servicemembers' Civil Relief  
Act of 1940, as amended. *Id.*

## 29 II. DISCUSSION

30 Summary judgment is proper only if the pleadings, the discovery and disclosure  
31 materials on file, and any affidavits show that there is no genuine issue as to any material  
32 fact and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c).

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33 <sup>1</sup> The Certificate of Indebtedness also includes a \$10.00 penalty, for a total of \$66,146.50.  
34 Dkt. 7-2. Plaintiff requested \$66,146.50 in its motion for summary judgment. Dkt. 7 at 4.


1 The moving party is entitled to judgment as a matter of law when the nonmoving party  
2 fails to make a sufficient showing on an essential element of a claim in the case on which  
3 the nonmoving party has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323  
4 (1985). There is no genuine issue of fact for trial where the record, taken as a whole,  
5 could not lead a rational trier of fact to find for the nonmoving party. *Matsushita Elec.*  
6 *Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986) (nonmoving party must  
7 present specific, significant probative evidence, not simply “some metaphysical doubt”).  
8 *See also* Fed. R. Civ. P. 56(e). Conversely, a genuine dispute over a material fact exists if  
9 there is sufficient evidence supporting the claimed factual dispute, requiring a judge or  
10 jury to resolve the differing versions of the truth. *Anderson v. Liberty Lobby, Inc.*, 477  
11 U.S. 242, 253 (1986); *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass’n*, 809 F.2d  
12 626, 630 (9th Cir. 1987).

13 The determination of the existence of a material fact is often a close question. The  
14 Court must consider the substantive evidentiary burden that the nonmoving party must  
15 meet at trial – e.g., a preponderance of the evidence in most civil cases. *Anderson*, 477  
16 U.S. at 254; *T.W. Elec. Serv., Inc.*, 809 F.2d at 630. The Court must resolve any factual  
17 issues of controversy in favor of the nonmoving party only when the facts specifically  
18 attested by that party contradict facts specifically attested by the moving party. The  
19 nonmoving party may not merely state that it will discredit the moving party’s evidence at  
20 trial, in the hopes that evidence can be developed at trial to support the claim. *T.W. Elec.*  
21 *Serv., Inc.*, 809 F.2d at 630 (relying on *Anderson, supra*). Conclusory, nonspecific  
22 statements in affidavits are not sufficient, and missing facts will not be presumed. *Lujan*  
23 *v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 888-89 (1990).

24 The Court concludes that Plaintiff is entitled to judgment as a matter of law.  
25 Defendant has not filed a response, he has admitted Plaintiff’s claims, and he has  
26 informed Plaintiff that he agrees to judgment and is “ready to make payments.” Dkt. 4  
27 (Answer to Complaint); Dkt. 10 at 3 (Defendant’s letter to Plaintiff); *see also* Local Civil  
28 Rule 7(b)(2) (“if a party fails to file papers in opposition to a motion, such failure may be  
considered by the court as an admission that the motion has merit”).

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Summary judgment (Dkt. 7) is **GRANTED** against Defendant in the amount of \$66,146.50 to March 19, 2008, and 9.00% interest per annum on the principal amount of \$26,735.00 to date of judgment, plus \$370.00 in filing and docketing fees. This judgment shall bear interest at the rate specified in 28 U.S.C. §1961.

  
BENJAMIN H. SETTLE  
United States District Judge